

Internal Revenue Service

District
Director

Department of the Treasury

P.O. Box 2508
Cincinnati, OH 45201

Person to Contact:

Telephone Number:

Refer Reply to:
EP/EO

Employer Identification Number:

Date: JAN 12 1993

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(4) of the Internal Revenue Code of 1986 and its applicable Income Tax Regulations. Based on the available information, we have determined that you do not qualify for the reasons set forth on Enclosure I.

Consideration was given to whether you qualify for exemption under other subsections of section 501(c) of the Code and we have concluded that you do not.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1120 if you are a corporation or an unincorporated association.

If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

You have the right to protest this proposed determination if you believe that it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892, "Exempt Organizations Appeal Procedures for Unagreed Issues". The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office, or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he or she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

12/10/92

12/14/92

[REDACTED].

If we do not hear from you within the time specified, this will become our final determination.

Sincerely yours,

[REDACTED]

PM

District Director

Enclosures: 3

Enclosure I
Reasons for proposed denial of exempt status

[REDACTED]

Information submitted with your application indicates that [REDACTED] [REDACTED] (hereafter referred to as the "organization" was incorporated [REDACTED]. Your Articles of Incorporation state that your purposes are:

1. To better existing conditions of police officers.
2. To advance social, charitable, and educational undertaking among police officers, including for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code, or corresponding section of future federal tax code.
3. To inculcate loyalty and allegiance to the United States of America.
4. To further justice and humanity by means of equality of treatment of all before law.
5. To protect the rights and encourage the development of member police officers.
6. To advocate rigid enforcement in a uniform manner of all civil service laws applicable to police officers.
7. To support all laws, ordinances and rules or regulations protecting or favorably affecting the welfare of police officers.
8. To protect the Constitutional rights of Police Officers.
9. To assist police officer members who are suspended, dismissed, or relieved of duty without justification.
10. To advocate the establishment and permanent maintenance of sound pension and retirement funds for police officers.
11. To have and exercise all rights and powers conferred on nonprofit corporations under the [REDACTED] Nonprofit Corporation Law, as such law is now in effect or may at any time hereafter be amended, Revenue Code, or corresponding section of any future federal tax code.

Article 2 of your organization's Bylaws states: "The purposes of this organization are to provide a mechanism for rendering affordable security protection services for special events and activities not funded by the municipality out of general fund revenues. Such services are necessary for the health, safety and welfare of the entire community."

Article 3, Section 2, of your organization's Bylaws states: that to qualify for admittance to this organization "the member must be an active officer of [REDACTED] in good standing."

[REDACTED].
On Form 1024, Part II, item 1, you provided the following detailed narrative description of your organization's activities:

The organization consists of police officers. The purpose is to provide security during off duty hours. For example, the organization provides officers during high school football games. The organization renders a bill to [REDACTED]. The organization pays its employees for the time spent.

The organization is formed to provide off duty security and traffic control services during community sporting and other events.

On Form 1024, Part III, Statement of Revenue and Expenses, you show that all revenue received will come from security services provided. You also show that all expenses will go to salaries and wages.

Section 501(c)(4) of the Code provides for the exemption from Federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

Section 501(c)(4) of the Code provides, in part, for the exemption from Federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Regulations states that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterment and social improvements.

To qualify as an organization exempt under Section 501(c)(4) of the Internal Revenue Code, an organization must establish that its primary purpose is to promote the common good and general welfare of the people of the community. Your organization's Bylaws, Form 1024 - Narrative on Activities, and Statement of Revenue and Expenses all demonstrate that your primary purpose is to provide off duty employment opportunities to members of the [REDACTED].

[REDACTED].

Section 501(c)(4) of the Code also states that net earnings of the organization must be devoted exclusively to charitable, educational, or recreational purposes. Your organization's Statement of revenue and Expenses demonstrates that all income the organization receives is paid to the members in wages and salaries.

Revenue Ruling 77-273, 1977 - 1 C.B. 195, describes an organization formed to provide security services for residents and property owners of a particular community. Security services provided include emergency rescue service, guard service for homes, apartments, businesses, and construction projects, and motorcycle escorts for funeral processions. These services are regularly provided by the organization's members who are paid in accordance with an established wage scale. Occasionally, the organization provides free security and rescue services if such services are necessary to protect life or property.

In Revenue Ruling 77-273, the Internal Revenue Service determined that by providing private security services on a regular basis in return for certain compensation, the organization is carrying on a business with the general public in a manner similar to organizations operated for profit. The fact that free security services are occasionally provided does not satisfy the requirements of the regulations that an organization be primarily engaged in promoting in some way the common good and general welfare of the people of the community. Accordingly, it was held that the organization did not qualify for exemption under section 501(c)(4) of the Code.

Your organization is similar to the organization described in Revenue Ruling 77-273. As in Revenue Ruling 77-273, your organization is formed to provide security services for community activities and off duty police officers are compensated for services provided. As in Revenue Ruling 77-273, you members occasionally volunteer their security services. However, the primary activity of the organization is not to provide volunteer security services, but to provide off duty employment opportunities for its members.

In your reply to our letter dated [REDACTED] you did note:
(1) a scholarship fund may be created in the future; (2) members of your organization do donate their time giving presentations on drug education, school safety, and self-defense for women; and (3) security is donated for some community benefit activities and for town parades. These are social welfare activities. However, when asked to provide a percentage of total time given to each of the organization's activities, you replied:

You ask what percentage of total time is given to each activity, I am not trying to be evasive, but we have not kept track of the hours we donate to this point. We did not have a need to keep it. If you press me for a guess, I would have to say we donate one hour for every hour we charge somebody.

Enclosure I con't

Accordingly, we have determined that your organization is not operated exclusively for social welfare, but is operated primarily to provide off duty employment opportunities for [REDACTED].

Consideration was given to whether you qualify for exemption under Sections 501(c)(5) or 501(c)(6) of the Internal Revenue Code.

Section 501(c)(5) of the Code provides for the exemption from Federal income tax of labor, agricultural or horticultural organizations.

Section 1.501(c)(5)-1(a) of the Regulations states that the organizations contemplated by section 501(c)(5) of the Code as entitled to exemption from income taxation are those which:

- (1) Have no net earnings inuring to the benefit of any member; and
- (2) Have as their objects the betterment of the conditions of those engaged in such pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in their respective occupations.

Section 501(c)(6) of the Code provides for the exemption from Federal income tax of business leagues, chambers of commerce, real-estate boards, boards of trade or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

However, the primary purpose of your organization is to provide employment opportunities to off duty police officers. In which case, the net earnings of the organization inure to the benefit of the members and your organization is engaged in the business of providing security services, a type of business ordinarily carried on for profit.

Accordingly, your organization does not qualify as an organization exempt under Section 501(c)(5) or Section 501(c)(6) of the Code.